



alleged in this complaint arose, this defendant was acting under color of state law in that he is the Medical Director at the Utah State Prison for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

3. Defendant Dr. Kennon Tubbs, M.D., is a citizen of Utah, and is employed as a physician at the Utah State Prison for the Utah Department of Corrections. At the time the claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he is a physician for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

4. Defendant John Does 1-10, whose true names are unknown and when true names are ascertained the pleadings will be amended accordingly, are citizens of Utah, and are employed at the Utah State Prison. At the time the claim(s) alleged in this complaint arose, these defendants were acting under color of state law in that they are employees for the Utah Department of Corrections and are directly responsible for wrongful actions alleged herein.

5. Jurisdiction is invoked pursuant to 28 U.S.C. Sec. 1343 (3); 42 U.S.C. 1983.

#### **B. NATURE OF CASE**

6. Plaintiff claims that several years ago, before he was incarcerated he was diagnosed as a diabetic.

7. Approximately, three (3) years ago, plaintiff was tested for diabetes by Defendant Tubbs at the Utah State Prison. Although, plaintiff had informed Defendant Tubbs that he had been

positively diagnosed as being diabetic previously, Defendant Tubbs told the plaintiff he was not a diabetic.

8. Plaintiff is and informed, and therefore believes that Defendant Garden instructed Defendant Tubbs not to provide medical treatment to the plaintiff for his diabetic condition.

9. Due to Defendant Garden and Defendant Tubbs total disregard and deliberate indifferent in refusing and failing to treat the plaintiff for a serious medical condition, the plaintiff has been subjected to cruel and unusual punishment and is entitled to punitive damages.

#### **C. CAUSE OF ACTION**

10. Plaintiff alleges that the following constitutional rights, privileges or immunities have been violated and that the following facts form the basis for the allegations:

a. Count I: Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment has been violated by Defendants actions in that they are denying him medications and treatment for his diabetic condition.

#### **D. INJURY**

11. Plaintiff is suffering from diabetic related illnesses.

#### **E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF**

12. Plaintiff has not filed any other law suits in state or federal court dealing with the same facts involved in this action.

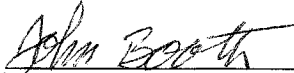
13. Plaintiff has previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of herein to no avail.

**F. REQUEST FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief:

- a) Trial by jury.
- b) That counsel be appointed to represent the Plaintiff in this action.
- c) Punitive damages in the amount of \$10,000.00.
- d) Compensatory damages in the amount of \$10,000.00.
- e) Grant attorney fees and court costs for this action.
- f) Such other and further relief the court deems just and proper.

DATED this 17 day of July, 2013.

  
\_\_\_\_\_  
JOHN BOOTH  
Plaintiff

**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he is the plaintiff in the above action, that he has read the above complaint and that the information contained therein is true and correct. 28 U.S.C. Sec. 1976. 18 U.S.C. Sec. 1621.

EXECUTED at August on \_\_\_\_\_, 2013.

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